

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Robert Edgerton, #279277,	)	
	)	C/A No.: 3:06-3401-MBS
Petitioner,	)	
	)	
vs.	)	
	)	
Robert H. Mauney, Warden,	)	<b>O R D E R</b>
	)	
Respondent.	)	
	)	

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Petitioner Robert Edgerton is an inmate in custody of the South Carolina Department of Corrections. Petitioner, appearing pro se, brings this action pursuant to 28 U.S.C. § 2254, asserting that he was denied effective assistance of counsel and that the trial court lacked subject matter jurisdiction.

This matter is before the court on motion for summary judgment filed by Respondent on February 23, 2007. (Entry 11). On February 27, 2007, an order was issued pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), advising Petitioner of the summary judgment procedure and the possible consequences if he failed to respond adequately. Petitioner failed to respond to the motion for summary judgment. On April 9, 2007, Petitioner was granted fifteen days to advise the court as to whether he wished to continue to pursue the case. Petitioner did not respond to the April 9, 2007 order.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling. On May 2, 2007, the Magistrate Judge filed a Report and Recommendation in which he recommended that the case be dismissed pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute and/or failure to comply with orders of the court. Petitioner filed no response to the Report.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation of the Magistrate Judge and incorporates it herein by reference. The case is dismissed with prejudice pursuant to Rule 41(b).

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

June 11, 2007

Columbia, South Carolina

**NOTICE OF RIGHT TO APPEAL**

**Petitioner is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**